

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID E. MACK

Plaintiff,

VS.

ADVANTAGE ASSETS II, INC.

Defendant.

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Case No. 4:11CV349

ORDER TO CONDUCT RULE 26(f) CONFERENCE

Having been informed by the clerk that one or more defendants in this case have appeared by filing an answer or otherwise, the Court hereby directs the parties to confer as required by Fed. R. Civ. P. 26(f) no later than **August 15, 2011**.

In addition to a discussion of the Items set forth in Rule 26(f), the parties shall attempt in good faith to agree on certain matters, including deadlines for a proposed Scheduling Order, and shall file with the Court a joint written report outlining their proposals no later than **August 29, 2011**.

The parties must include the following matters in the joint conference report:

1. A factual and legal description of the case which also sets forth the elements of each cause of action and each defense;
2. The date the Rule 26(f) conference was held, the names of those persons who were in attendance and the parties they represented;
3. A list of any cases that are related to this case and that are pending in any state or federal court with the case numbers and court along with an explanation of the status of those cases;
4. An agreed discovery/case management plan, if agreement can be reached, which will be used by the Court to prepare a Scheduling Order (a sample Scheduling Order form is enclosed which must be used by the parties; the Scheduling Order shall be filed as an attachment to the joint conference report), and which includes deadlines for the following:
 - a. Joining additional parties;
 - b. Filing amended pleadings;

- c. Filing any motions to transfer, to remand, to dismiss, for summary judgment, or other dispositive motions;
 - d. Disclosures of expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) and Local Rule 26(b);
 - e. Filing any objections or challenges to any other party's experts;
 - f. Pretrial disclosures pursuant to Fed. R. Civ. P. 26(a)(3); and
 - g. Completion of all discovery.
- 5. A suggested date for the Final Pretrial Conference (see enclosed list of the Court's available Final Pretrial Conference dates) at which time the trial will be scheduled;
 - 6. The expected length of trial;
 - 7. Whether the parties jointly agree to trial before a magistrate judge (the parties should seriously consider this option given that **the District Judge is now setting jury trials approximately 11 months out from the date of the final pretrial**);
 - 8. Whether a jury demand has been made; and
 - 9. **Whether any party requests a scheduling conference with the Court.**

The joint conference report should be signed by counsel for each party and by any unrepresented parties.

All parties should keep in mind that failure to participate fully in the Rule 26(f) conference or to submit the joint conference report may result in the imposition of sanctions authorized by Rule 16(f) Fed. R. Civ. P.

All parties are advised that the Court reserves the right to alter or modify any dates provided in the proposed Scheduling Order.

SO ORDERED.

SIGNED this 5th day of July, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
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DAVID E. MACK

Plaintiff,

VS.

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Case No. 4:11CV349

SCHEDULING ORDER

After reviewing the report from the parties required by Fed. R. Civ. P. 26(f) and after consulting with the parties by mail or a scheduling conference, the Court hereby enters the following Scheduling Order pursuant to this Court's Local Rule CV-16 and Fed. R. Civ. P. 16:

- (1) Other parties shall be joined pursuant to Fed. R. Civ. P. 19 and 20 by _____. (A motion for leave to add parties is not necessary provided parties are added by this date, otherwise leave of court is required. The date to add parties should be at least 60 days before the deadline for filing motions listed in (3) below.)
- (2) Amended pleadings shall be filed by _____. (A motion for leave to amend is not necessary; however, this date should be at least 30 days before the deadline for filing motions listed in (3) below.)
- (3) All motions to transfer, motions to remand, motions to dismiss, motions for summary judgment, or other dispositive motions, shall be filed by _____. Unless leave of court is first obtained, a party may file no more than one motion for summary judgment. (In order for the Court to make a ruling on these motions before the Final Pretrial Conference and Trial Scheduling date, this date should be at least 75 days before the Final Pretrial Conference and Trial Scheduling date (10).)
- (4) Disclosure of expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) and Local Rule CV-26(b) shall be made by the plaintiff by _____, and by the defendant by _____. Thereafter, each party shall have until _____, to object to any other party's expert witnesses. Such objections shall be made by a motion to strike or limit expert testimony and shall be accompanied by a copy of the expert's report in order to provide the Court with all of the information necessary to make a ruling on any objection.

- (5) Pretrial disclosure pursuant to Fed. R. Civ. P. 26(a)(3) shall be made by the plaintiff by _____, and by the defendant by _____.
- (6) All fact discovery shall be commenced in time to be completed by _____. (This date should be no later than the deadline for filing dispositive motions.)
- (7) This case shall be mediated by _____. If the parties agree on a mediator, they shall so notify the Court of the name, address, and telephone number of the attorney-mediator by _____. Otherwise, the Court will select a mediator.
- (8) Two copies of the Joint Final Pretrial Order prepared in accordance with Local Rule CV-16(b) and Joint Proposed Jury Instructions and Verdict Form (or proposed Findings of Fact and Conclusions of Law in nonjury cases) shall be delivered by the plaintiff to the Court by _____. In order to enable the plaintiff to prepare and deliver the Joint Final Pretrial Order and Joint Proposed Jury Instructions and Verdict Form (or proposed Findings of Fact and Conclusions of Law in nonjury cases) to the Court, and to enable the defendants and any third parties to participate in the preparation of such documents, the plaintiff shall provide the plaintiff's share of the necessary information to all other parties by _____. Thereafter, all defendants and third parties shall provide their share of the information to plaintiff by _____.
- (9) Any motions in limine shall be filed by _____. (This date should be at least 30 days prior to the Final Pretrial and Trial Scheduling date (10).) Responses to motions in limine shall be filed within the time provided by Local Rule CV-7.
- (10) This case is set for a Final Pretrial Conference and Trial Scheduling on _____. (Select a date from the enclosed list of Final Pretrial Conference and Trial Scheduling Dates.)

FINAL PRETRIAL CONFERENCE DATES*
FOR JUDGE RICHARD A. SCHELL

June 6, 2011
July 5, 2011
August 1, 2011
September 6, 2011
October 3, 2011
November 7, 2011
December 5, 2011
January 3, 2012
February 6, 2012
March 5, 2012
April 2, 2012
May 1, 2012
June 4, 2012

*Use one of the dates listed above to complete item number (10) of the Scheduling Order.